

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DEXTER SALLIS,

Plaintiff,

v.

OPINION and ORDER

08-cv-514-slc

DR. BURTON COX and JOHN PAQUIN,

Defendants.

On August 24, 2009, I granted summary judgment in favor of defendants because plaintiff failed to adduce evidence that would allow a reasonable jury to infer that either defendant was aware of plaintiff's need to renew his prescription for migraine medicine before defendant Cox received a note about the matter, after which he promptly prescribed the medicine. Now plaintiff has filed a notice of appeal. Because the notice is not accompanied by the \$455 fee for filing his appeal, I construe plaintiff's notice to include a request for leave to proceed on appeal in forma pauperis.

Plaintiff's request for leave to proceed in forma pauperis on appeal is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether plaintiff's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Plaintiff does not have three strikes against him, and I do not intend to certify that his appeal is not taken in good faith.

The only other hurdle to plaintiff's proceeding with his appeal in forma pauperis is the requirement that he pay an initial partial payment of the filing fee that has been calculated from a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2). Plaintiff has not submitted

the necessary trust fund account statement. Until he does so, I cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Accordingly, IT IS ORDERED that plaintiff may have until October 9, 2009, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately March 1, 2009 to approximately September 1, 2009. If, by October 9, 2009, plaintiff fails to submit the required trust account statement or show cause for his failure to do so, then I will deny his request for leave to proceed in forma pauperis on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 18th day of September, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge